

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDWIN ISHOO, M.D.,

Plaintiffs,

v.

CIV. NO. 06-747 MCA/ACT

**BOARD OF REGENTS, UNIVERSITY
OF NEW MEXICO, et al.,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on Defendant Jean Bannon's Motion to Stay Discovery Pending a Decision on Qualified Immunity filed July 15, 2008 [Doc. 97]. Defendant is seeking a stay of discovery until a ruling on her Motion to Dismiss All Claims Against Her on Qualified Immunity Grounds [Doc. 96]. All parties concur in this request [Docs. 97 and 120]. The Court finds that Defendant's Motion is well taken and will be granted.

The qualified immunity defense protects governmental officials performing discretionary functions from liability as well as the burdens of trial and discovery. *Jiron v. City of Lakewood*, 392 F.3d 410, 414 (10th Cir. 2004); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) ("we reiterate that qualified immunity is not only a defense to liability but also entitlement to immunity from suit and other demands of litigation") (citing *Siegert v. Gilley*, 500 U.S. 226 (1991)). Indeed when a motion to dismiss based on qualified immunity is filed, a court has limited discretion on the issue of a stay of discovery, and should stay discovery until the court considers and determines the motion to dismiss. *Workman*, 958 F.2d at 336.

IT IS THEREFORE ORDERED that Defendant Jean Bannon's Motion to Stay Discovery Pending a Decision on Qualified Immunity is granted and all discovery will be stayed pending the court's disposition of Defendant Jean Bannon's Motion to Dismiss All Claims Against Her on Qualified Immunity Grounds.



ALAN C. TORGERSON
UNITED STATES MAGISTRATE JUDGE